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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 76/021,469
Published in the Official Gazette on October 2, 2001
Mark: WASHINGTON PIGSKINS

PRO-FOOTBALL, INC. and NFL
PROPERTIES LLC,

Opposers,

-against-

DAVID S. CAMPBELL,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION



07-01-2002

U.S. Patent & TMO/TM Mail Rpt Dt. #61

TRADEMARK TRIAL AND
APPEAL BOARD
02 JUL 11 AM 12:41

TO THE ASSISTANT COMMISSIONER FOR TRADEMARKS:

Opposers Pro-Football, Inc. ("Washington Redskins") and NFL Properties LLC ("NFLP") believe they will be damaged by registration of the mark WASHINGTON PIGSKINS as shown in the above-identified application and hereby oppose the same pursuant to Section 13(a) of the Trademark Act of 1946, as amended (the "Lanham Act"), 15 U.S.C. § 1063(a).

As grounds for the opposition, Opposers allege that:

1. Opposer Washington Redskins, a corporation organized and existing under the laws of Maryland with its principal place of business at 21300 Redskin Park Drive, Ashburn, Virginia 22011, owns and operates the Washington Redskins football franchise, providing entertainment services to the public in the form of competitive professional football games. The Washington Redskins football franchise is one of the thirty-two member clubs (the "Member Clubs") of the National Football League ("NFL").

2. ~~1200, 00, 00~~ Opposer NFLP, a limited liability company organized and existing under the laws of Delaware with its principal place of business at 280 Park Avenue, New York, New York

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10017, has been licensed exclusively by the NFL and each of the Member Clubs to use their respective trademarks for commercial purposes, to promote the NFL and its Member Clubs and to protect their trademarks.

3. For many years and long before April 10, 2000, the filing date of the intent-to-use application herein opposed, Opposers have used marks incorporating the terms WASHINGTON REDSKINS, REDSKINS, SKINS and variations thereof ("SKINS Marks") in connection with their business of organizing, conducting and promoting the Washington Redskins football franchise.

4. For many years and long before April 10, 2000, the filing date of the intent-to-use application herein opposed, Opposers and their authorized business partners, sponsors and licensees have used the SKINS Marks on or in connection with the sale of a wide variety of goods and services, including paper goods and printed matter and clothing. Attached as Exhibit A is a printout of officially licensed paper goods and printed matter and clothing available through the Washington Redskins Web site.

5. On behalf of the NFL and its teams, NFLP actively seeks to identify and stop perceived infringers of the marks of the NFL, including the SKINS Marks. Accordingly, no third parties currently lawfully use similar marks to any extent or nature.

6. During their long, widespread and continuous use of the SKINS Marks, Opposers and their authorized business partners, sponsors and licensees have expended considerable time, effort and money in advertising and publicizing the sale of goods and services bearing the SKINS Marks.

7. Opposers and their licensees and sponsors have sold, and offered for sale, goods and services bearing the SKINS Marks in a trading area of broad geographical scope encompassing, inter alia, all of the states and territories of the United States.

8. Opposers and their licensees and sponsors have sold, and offered for sale, goods and services bearing the SKINS Marks in numerous channels of trade. Millions of persons from around the United States attend NFL games, including Washington Redskins games, each year, and millions more follow NFL games, including Washington Redskins games, via television and radio broadcasts. Still many other persons access information through the Internet by downloading information from the Washington Redskins' Web site at <www.redskins.com>.

9. For many years and long before April 10, 2000, the filing date of the intent-to-use application herein opposed, the print and broadcast media and the general public have used the SKINS Marks many thousands of times when referring to the Washington Redskins football franchise. Such use by the media and the public inures exclusively to the benefit of Opposers.

10. Opposers' widespread use of the SKINS Marks on a variety of goods and services, Opposers' extensive advertising and publicity of such goods and services and the thousands of uses by the media of the SKINS Marks when referring to the NFL and the Washington Redskins have contributed to the powerful consumer association between the SKINS Marks and Opposers, and have made the SKINS Marks truly famous.

11. The SKINS Marks have a high degree of inherent distinctiveness because they are arbitrary with respect to the goods and services of Opposers.

12. The SKINS Marks have a high degree of acquired distinctiveness due to the duration and extent of Opposers' use, advertising and publicity of the SKINS Marks.

13. In addition to Opposers' common law rights in the SKINS Marks, Opposer Pro-Football, Inc. owns the following federal trademark registrations for SKINS Marks:

<u>Registration Number</u>	<u>Mark</u>	<u>International Class(es)</u>	<u>Date of First Use</u>
1,085,092	REDSKINS	041	00/00/1932
0.836,122	THE REDSKINS	041	00/00/1932
0,978,824	WASHINGTON REDSKINS	041	09/19/1937
0,986,668	WASHINGTON REDSKINS	041	01/00/1941
0,987,127	THE REDSKINS	041	01/00/1941

All but one (Reg. No. 0,986,668) of the above-referenced registrations are incontestable pursuant to Section 15 of the Lanham Act, 15 U.S.C. § 1065.

14. By the application herein opposed, Applicant seeks to register the mark WASHINGTON PIGSKINS in International Classes 16 and 25. The application was filed on the basis of Applicant's intent to use the mark WASHINGTON PIGSKINS for paper goods and printed matter and clothing.

15. Applicant filed this application on April 10, 2000, many years after Opposers started using the SKINS Marks, and after the marks had become famous.

16. By the application herein opposed, Applicant intends to capitalize on the goodwill associated with Opposers.

17. Applicant's intention to trade on the goodwill associated with Opposers is evidenced in a letter, attached as Exhibit B, from Applicant to Opposers, dated February 25, 2002, in which Applicant admits that he created the mark WASHINGTON PIGSKINS as "a new team name and logo for the Washington DC NFL football franchise" and urges Opposers to "see

the value of owning the name WASHINGTON PIGSKINSTM as a potential successor name to the current one.”

18. Opposers will be damaged by the registration sought by Applicant because such registration will support and assist Applicant in the confusing and misleading use of the mark sought to be registered, and will give color of exclusive statutory rights to Applicant in violation and derogation of the prior and superior rights of Opposers.

19. Registration should be refused pursuant to Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a), on the grounds that Applicant’s use of the mark WASHINGTON PIGSKINS falsely suggests a connection between Applicant and Opposers named herein, to the damage of Opposers.

20. Registration should be refused pursuant to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), on the grounds that Applicant’s WASHINGTON PIGSKINS mark so resembles the SKINS Marks used consistently by Opposers in the United States, as to be likely, when used on or in connection with paper goods and printed matter and clothing, to cause confusion, or to cause mistake, or to deceive, with consequent injury to Opposers and to the public.

21. Registration should be refused pursuant to Sections 2(f) and 13(a) of the Lanham Act, 15 U.S.C. §§ 1052(f) and 1063(a), on the grounds that Opposers will be damaged by the registration sought by Applicant because the registration will dilute the distinctive and famous quality of the SKINS Marks.

WHEREFORE, Opposers believe they will be damaged by the registration by Applicant of the mark WASHINGTON PIGSKINS for the goods identified in Application Serial

Number 76/021,469 and respectfully request that the opposition be sustained and registration of said mark be denied.


This Notice of Opposition is filed in duplicate as required by 37 C.F.R. § 2.104(a). Pursuant to 37 C.F.R. §2.6(a)(17), please find a check in the requisite amount of one-thousand, two hundred dollars (\$1,200.00) to cover the statutory fee for filing a notice of opposition; please charge any additional amounts to Deposit Account Number 23-1705.

All communication should be addressed to Opposers' counsel, White & Case LLP, at the below stated address.

Dated: New York, New York
June 28, 2002

Respectfully submitted,

WHITE & CASE LLP

By: 

Robert L. Raskopf
Jennifer L. Johnson
Lawrence A. Weinstein
1155 Avenue of the Americas
New York, New York 10036

ATTORNEYS FOR OPPOSERS PRO-
FOOTBALL, INC. AND NFL PROPERTIES,
LLC

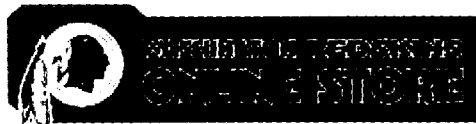
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I hereby certify that this document and instructions for payment of fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service in an envelope addressed to the Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513 on this 28th day of June, 2002.

Signature: 

Lawrence A. Weinstein



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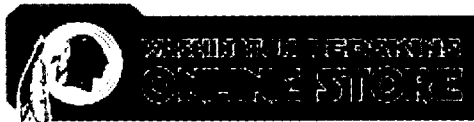


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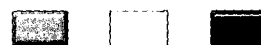
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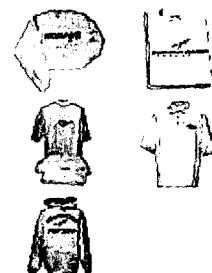
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February 25, 2002

VIA FACSIMILE TO (212) 681-7599

AND VIA FEDEX

Mr. David M. Proper, Counsel
Legal and Business Affairs
NFL Properties, Inc.
280 Park Avenue
New York, NY 10017

Re: Response to your letter of January 4, 2002
About the WASHINGTON PIGSKINS™

Dear Mr. Proper:

This is written to respond to your letter of January 4, 2002 and our recent telephone conversations. As we discussed by telephone, I am now, and have been for 30 years, a fan of the Washington Redskins football team. Although I now live far from the nation's capital, nearly every year, I fly to Southwestern U.S. cities to watch "my" team play as visitor.

Beginning nearly a dozen years ago, I realized that the very name "Washington Redskins" had become a controversial one, with some accusing the team of using an ethnic slur for a name. Commentators in the media, arts, religion, and public affairs began to criticize the team's ownership for its continued use of the "Redskins" name. Living in the American Southwest, there may be a heightened sensitivity about Native Americans.

In 1993, I set out on a project to apply some creativity to solve the Washington NFL team name problem.

I started the project with the premise that, at some point in the near or distant future, the Washington team would need to change its name. Even if the team was not compelled to do so, it would eventually become less and less supportable to retain the team name "Redskins" and the logo which featured an American Indian and eagle feathers.

I became committed to the discovery and development of a new team name and logo for the

Washington DC NFL football franchise. I undertook this work as a friend and fan of the team. After several weeks of research and writing, I came upon the name which I believed was a worthy successor name: the WASHINGTON PIGSKINS™. For a number of reasons, which are set out below, I believed that this name could be an appropriate team name for the Washington DC NFL franchise.

The reasons I believe that WASHINGTON PIGSKINS™ is the appropriate new successor name for the Redskins are as follows:

1. WASHINGTON PIGSKINS™ does not stray very far from the current team name. It has the same number of syllables and the same number of letters. It rhymes with “Washington Redskins”.
2. WASHINGTON PIGSKINS™ incorporates the nickname for a football: a pigskin. No professional football team, to my knowledge, has used this familiar moniker in a name.
3. Many Washington fans have already shortened the “Redskins” to the “Skins”. Naming the team PIGSKINS means that fans can still abbreviate the team name to the ‘Skins’.
4. Washington’s NFL team already has a history of porcine affinity . . . the offensive front line has been known as the “Hogs” for decades. A popular group of male fans raise money for charity by dressing up as pigs, calling themselves the Hogettes. The snout nose costume has apparently more appeal for Washington fans than war paint, headdresses, spears, and eagle feathers.
5. There is nothing controversial or disreputable about naming an NFL team after an animal. Indeed, nearly half of the NFL teams have animal names: Bears, Eagles, Jaguars, Seahawks, Dolphins, Ravens, Rams, Panthers, Lions, Bengals, Broncos, Cardinals, Falcons, and Colts. Both the Houston Texans and the Buffalo Bills use an animal logo.
6. Despite the abundance of animal-named teams in the NFL, there are, as yet, no NFL teams names for members of the pig family. Note that the college Arkansas Razorbacks use a hog logo and have enjoyed a very positive reputation for years.
7. If the Washington NFL franchise were to adopt the name WASHINGTON PIGSKINS™ as its name, even the team’s fight song would not need to change: “Hail to the Pigskins, Hail victory, Hail to the Pigskins, fight for old D.C.”
8. Adopting a name that references an animal, particularly an animal as well-known and established as a pig, brings with it an entire series of existing vocabulary and references which will find favor with the team and its fans. Fans will go “hog wild” for their team. The stadium bar could serve “SWINE WINE” and an ice cold pint of “OINK”. A stadium fast food restaurant may be called the “TROUGH” and the higher end stadium restaurant may be

called "TRUFFLES".

9. The Pigskins name will bring a clever solution to the team's current name problem. It will permit a more humorous response to the heavy atmosphere surrounding the politically charged "Redskins" name. A clever logo featuring a curly tail would replace the use of the sacred eagle feathers.
10. Those who live outside of the Capital Beltway look to the political Washington as the source of federal beneficence, the "pork barrel" for the rest of the country. Given this fact, it would be difficult to find a more appropriate name than WASHINGTON PIGSKINS™ to reference "pork".
11. Given the sensitivity to the use of Native American symbols and personages, the team has not been able to fully exploit the use of its mascot as a symbol. When the mere use of people in Indian costumes with full headdress, spears, and war paint as mascots are controversial or frowned upon, the team does not have a very utilitarian name. Using the name "Pigskin" will result in the team being able to have a live mascot—perhaps an adorable (or ferocious) pig on the sidelines.

There are other reasons for which WASHINGTON PIGSKINS™ is an ideal name for the team, and I would be glad to meet with NFL and team officials to discuss them.

In the time since I began this re-naming project, the situation for the name of the Washington NFL franchise has become even more controversial.

The team's tradename was challenged under the Lanham Act in the 1990's. In 1999, a three judge panel of the U.S. Patent and Trademark Office determined that the team's name was disparaging and constituted a violation of the trademark laws. The matter is now on appeal in Federal District Court. Federal District Judge Kollar-Kotelly will decide, sometime in 2002, whether the USPTO panel was correct, or whether, as the team argues, the Lanham Act is unconstitutional.

The Motor Vehicle Divisions of at least two states (California and Utah) have rescinded prestige license plates of team fans bearing the name "Redskins" or some derivation thereof because they determined that such a license plate was an ethnic slur, or was otherwise in poor taste. The Washington DC Council of Governments recently adopted a resolution calling on the Redskins to change their name.

In 1994, I wrote to the then-owner of the Redskins, Jack Kent Cooke, with the suggestion that the team change its name to the WASHINGTON PIGSKINS™. My letter ended up in the employment stack, and I got a letter back from Mr. Cooke saying the team had no jobs available. I wrote back to encourage him to consider the name change, but received no answer.

During the six years since, I have given this serious thought, and have continued to develop the

WASHINGTON PIGSKINS™ name. I hired a graphic artist to create a logo to accompany the name. I enclose a sample of the work in the mailed version of this letter. You will notice that I had the designer reformat the name from "Redskins" to "Pigskins". I have begun to develop a few sample products to show what is possible. In the copy of this letter sent by FedEx, I enclose a Pigskin mug, which turns into a snout when one drinks from it.

Last year, I secured the domain names washingtonpigskins.com, washingtonpigskins.net, and washingtonpigskins.org. I have not yet created a website for this concept, preferring to engage in discussions with the team and the NFL about considering this name as a successor name to the current team name.

As you know, I have filed for registration of the mark WASHINGTON PIGSKINS™ in the U. S. Trademark Office. The intellectual property search that I had performed discloses no similar names or those which would be confusingly similar in the marketplace. With all due respect to the position you took in your letter of January 4, 2002 regarding confusion of similar names, I don't believe the USPTO or a Court would find in the NFL's favor on your apparent claim that Native Americans and pigs would be extremely similar, one to the other.

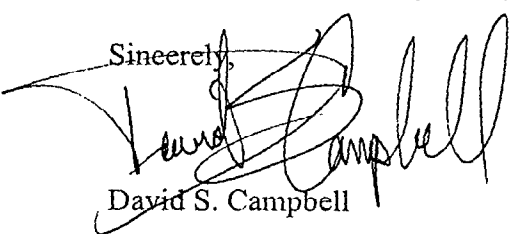
In any case, as noted above, and as I described to you by telephone earlier this month, my intention has always been to help "my" team, the Redskins, with a solution to the controversial and difficult name problem. I believe that ultimately the team and the league will see the value of owning the name WASHINGTON PIGSKINS™ as a potential successor name to the current one.

I also understand that since the team and the league are engaged in litigation to protect their Redskins tradename, any discussion of acquiring a successor name would be seen as a sign of weakness or lack of resolve by team ownership. For this reason, I would agree to executing an appropriate confidentiality agreement prior to any such discussions with team or league officials. For your information, no one except your office has contacted me about the USPTO application in this matter.

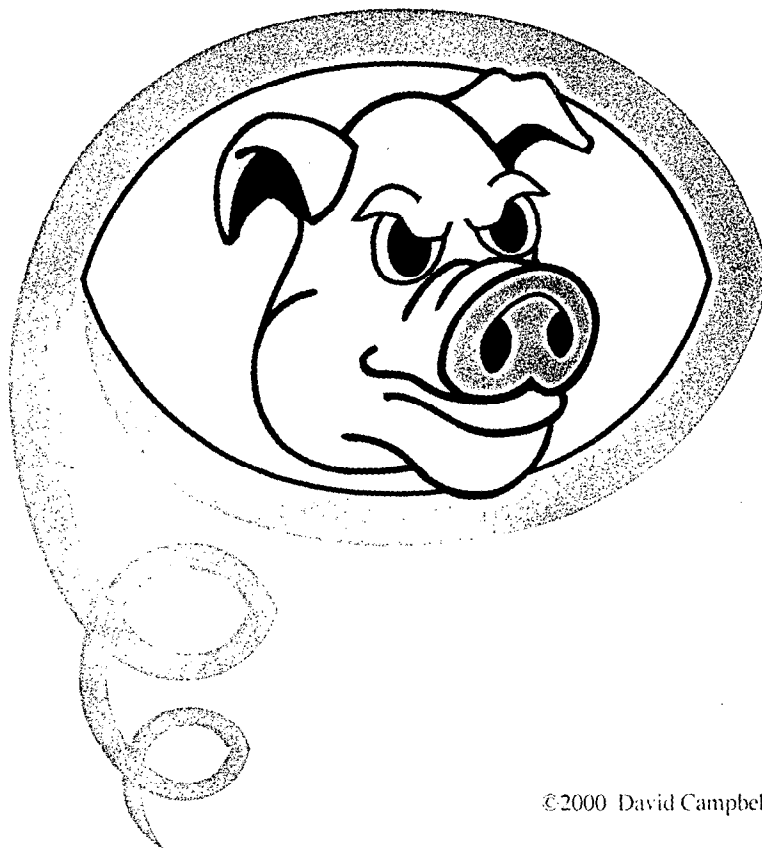
In summary, WASHINGTON PIGSKINS™ is an ideal new name for the Washington DC NFL franchise. I have always thought that the team and the NFL would agree. For the foregoing reasons, I don't believe that NFL Properties is compelled to oppose the registration of this mark, and should rather work together with me to assure that the Redskins have the WASHINGTON PIGSKINS™ name in reserve if things turn out badly in the legal process.

I look forward to hearing from you about this.

Sincerely,



David S. Campbell



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June 28, 2002

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Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-2513
BOX TTAB FEE

Re: In re Application of David S. Campbell: WASHINGTON PIGSKINS,
Serial No. 76/021469

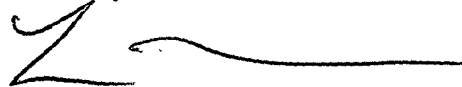
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To the Assistant Commissioner:

I enclose the original and one copy of the Notice of Opposition by Pro-Football, Inc. and NFL Properties LLC to the above-referenced application. Pursuant to 37 C.F.R. §2.6(a)(17), please find a check in the requisite amount of \$1,200 to cover the statutory fee for filing a notice of opposition; please charge any additional amounts to Deposit Account No. 23-1705.

Please stamp and return the enclosed postcard to acknowledge receipt for our files.

Sincerely,



Lawrence A. Weinstein

Enclosures

cc: David M. Proper, Esq.
Robert L. Raskopf, Esq.

